

PLEASE RETURN A PROPOSAL FOR THE REORGANIZATION OF MONTANA'S YOUTH SERVICES

A REPORT TO THE FORTY-EIGHTH LEGISLATURE

SUBCOMMITTEE ON HUMAN SERVICES

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November 1982

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MONTANA'S YOUTH SERVICES

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FORTY-EIGHTH LEGISLATURE

SUBCOMMITTEE ON HUMAN SERVICES

November 1982

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Montana Legislative Council
State Capitol
Helena, Montana 59601

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ACKNOWLEDGMENTS

The Subcommittee on Human Services extends its appreciation to the many individuals and groups, too numerous to mention separately, who provided information, ideas, and above all displayed their deep concern for the troubled youth of Montana. Without their cooperation the Subcommittee's task would have been much more difficult.

SUMMARY OF RECOMMENDATIONS

1. No changes should be made in the definition of a "youth in need of supervision"; specifically the Youth Justice Council's proposal should be rejected.
2. Responsibility for funding and licensing of services to troubled youth should be clarified and simplified:
 - The Department of Social and Rehabilitation Services should be given responsibility for funding and licensing of residential services to troubled youth.
 - The responsibility for institutionalized youth should remain with the Department of Institutions.
 - Six-month commitments to the Department of Institutions should be eliminated and youth should be the responsibility of juvenile probation or SRS, as appropriate.

SUMMARY

Under SJR 29, the Joint Subcommittee on Human Services was assigned to study the treatment of youth in Montana's juvenile system, including overall financing, the Youth Court, community treatment, counseling, and services for emotionally disturbed and chemically dependent youth. The Subcommittee obtained information on the problems in the youth justice system by receiving testimony from individuals working in all aspects of the system and by surveying a sample of youth service workers and other individuals who either fund youth services or have direct contact with youth (i.e. law enforcement, youth courts, etc.). After reviewing all testimony and information presented to them, Subcommittee members decided to adopt legislation which would centralize the authority for residential services to troubled youth in one state agency. Under the proposed legislation SRS would be given authority for funding and licensing residential services to troubled youth. The responsibility for institutionalized youth would remain with the Department of Institutions. Six-month commitments to the Department of Institutions would be eliminated and youth in the community would be the responsibility of juvenile probation or SRS, as appropriate.

The provision of quick and appropriate treatment for troubled youth was the main concern of the Subcommittee throughout the study. Thus, the Subcommittee viewed the move to centralize authority in one state agency as a means of providing more accountability to the system, while at the same time simplifying the system so that there is a prompt and appropriate placement of troubled youth. Department of Institutions will continue to be responsible for aftercare.

SENATE JOINT RESOLUTION NO. 29

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE NEED TO CLARIFY THE DEFINITION OF YOUTH IN NEED OF SUPERVISION, OF THE POLICIES AND PRACTICES OF AGENCIES FINANCING SERVICES FOR YOUTH PLACED OUT OF THEIR HOMES, OF THE NEED FOR A SIMPLIFIED MECHANISM TO DISTRIBUTE FUNDS FOR YOUTH PLACED OUT OF THEIR HOMES, AND OF THE PROBLEMS OF CHEMICALLY DEPENDENT AND EMOTIONALLY DISTURBED YOUTH IN PRIVATE AND PUBLIC INSTITUTIONS; AND REQUIRING A REPORT AND RECOMMENDATIONS TO THE LEGISLATURE.

WHEREAS, the declared policy of the State of Montana is to insure that all youth are afforded an adequate physical and emotional environment to promote normal development and to compel a parent or guardian to perform the moral and legal duty owed to a youth; and

WHEREAS, the parent has a fundamental right to establish guidelines for the youth within the family as the basic social unit, and the state has a duty to support the family by providing services and legal sanctions; and

WHEREAS, the state has the responsibility to protect children whose health and welfare are threatened by the conduct of those charged with their care; and

WHEREAS, several agencies are presently functioning under an uncoordinated and complicated formula for financing services for youth placed out of their homes, and

WHEREAS, some youth by their own conduct, behavior patterns, chemical dependence, or emotional disturbance jeopardize their own well-being and the persons and property of others.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That an appropriate interim committee be assigned to study:

(1) the definition of youth in need of supervision in the Montana Youth Court Act to clarify governmental responsibility for these youth and their families;

(2) policies and practices of governmental agencies financing services for youth placed out of their homes under the Montana Youth Court Act and development of a simplified mechanism to distribute these funds and share the burden between state and local governments while encouraging treatment of these youth in their own communities;

(3) problems of residential services for chemically dependent youth and emotionally disturbed youth in private and public institutions; and

(4) the effectiveness and adequacy of public and private services and programs designed to assist youth and families in dealing with problems to prevent youth from having to be removed from their homes.

BE IT FURTHER RESOLVED, that the committee enlist the advice and assistance of the youth court probation officers, district youth court judges, county attorneys, defense attorneys, county commissioners, law enforcement officers, Office of Public Instruction, Youth Justice Council, Department of Justice, Department of Social and Rehabilitation Services, Department of Institutions, and the Montana Council of Private Child Caring Agencies.

BE IT FURTHER RESOLVED, that the committee report its findings and recommendations to the 48th Legislature and, if necessary, draft legislation to implement its recommendations.

Approved April 21, 1981.

I. INTRODUCTION: A History of SJR 29

The major impetus for SJR 29 was a series of bills proposed during the 1981 Legislative Session by the Persistent Status Offender Force, a subcommittee of the Montana Juvenile Justice Council. Those bills were intended to revise the treatment of status offenders by: 1) creating an emancipation status for youth who have reached 16 years of age and who wished to take on the responsibilities and privileges of adulthood, 2) creating a procedure for allowing either a youth or his parents to petition the court to provide an alternative living arrangement for the youth, and 3) redefining a youth in need of supervision in order to separate the less serious offenders. These bills were assigned to a hearing in the Senate Highway Committee. That Committee decided that while the bills might have merit, further study of the juvenile justice system was needed before action could be taken on these bills, so the Committee requested SJR 29.

SJR 29 called for a broader study of the system than the task force bills encompassed. The resolution requested a study of:

- a) the definition of youth in need of supervision in the Montana Youth Court Act to clarify governmental responsibility for these youth and their families; and
- b) policies and practices of governmental agencies financing services for youth placed out of their homes under the Montana Youth Court Act and development of a simplified mechanism to distribute these funds and share the burden between state and local government while encouraging treatment of these youth in their own communities; and
- c) problems of residential services for chemically dependent youth and emotionally disturbed youth in private and public institutions; and
- d) the effectiveness and adequacy of public and private services and programs designed to assist youth and families in dealing with problems, to prevent youth from having to be removed from their homes.

While this study entailed an examination of many different and supposedly distinct elements of the youth justice system, a change in one element of the system is bound to impact in all other elements. The Subcommittee decided that the best way to obtain information on the total system was through testimony from individuals working in all aspects of the system and through a survey of a sample of those working in the field offices. The survey was distributed in 14 counties to youth service workers and to other individuals who either funded youth services or who had direct contact with youth (i.e., law enforcement, youth courts, etc.) The results of this survey are summarized in the next section.

II. YOUTH SERVICES SURVEY: Summary of Findings

The youth services survey was designed to obtain information on the concerns and views of individuals and organizations providing services to troubled youth. The response to the survey, especially from probation officers and welfare workers, indicated that there were some major flaws in the system. The survey presented a picture of a system which is both confused as to its goals and confusing to those who participate in it.

The first part of the survey was designed to assess the respondent's position in the youth justice system and to obtain general information on how the respondent perceived the functioning of social services in his or her community. The respondents were for the most part aware of the other agencies and/or participants in the system. They were sensitive to the problems inherent in the system. These problems were perceived to be a result of both the differing responsibilities assigned to the various social agencies and the differing needs of urban and rural communities.

While there were and are incidents of personality conflicts within the system, the majority of the respondents perceived a willingness for people in the different parts of the system to cooperate with one another. Part of the missing link to this cooperation was more and better communication between agencies and communities. In some communities interagency agreements or citizen panels are used to resolve conflicts between agencies. However, methods for removing obstacles to effective communication between agencies still need to be examined in more detail.

The survey revealed a difference in the perceived needs of rural and urban communities. There are unique urban and rural problems that are a function of the size of the communities. While the larger urban communities have a greater number of trouble youth, they also have more community support for their services and more resources (i.e. facilities, programs and staff) to deal with those youth. The urban areas are in a better position to provide services outside of the youth court for status offenders or first-time delinquents. Smaller communities were more likely to report limited resources and less likely to support any changes in the system, except for the provision of additional resources, since any change might mean a loss of control over their part of the system, or it might mean that they would be given the responsibility of providing more or different services without the resources to do so.

The second part of the survey was designed to obtain more information on how the respondents viewed the role of the status offender in the juvenile justice system, and if they felt that status offenders should continue to be under the jurisdiction of the youth court. Most of the respondents said that status offenses should be retained under the jurisdiction of the court, but they were divided on the role that the court should play in handling status offenders, especially since a number of the respondents felt that the youth court "criminalizes" noncriminal behavior. In some urban areas there are already a number of diversion programs for status offenders, but this type of program can put the probation officer in a conflicting position -- on one hand he is trying to divert as many youth as possible and on the other hand some members of the community expect him to adjudicate or punish those same youth. In rural areas there are fewer alternatives for placing a child out of the home. In some instances, in order to work with a child in a rural community a probation officer must travel 90 miles. In such a community more influence rests with the local authorities.

Another concern that was repeatedly expressed throughout the survey was the lack of parental involvement. To those working in the system the family was the key to the treatment or prevention of delinquency. While the courts were perceived to have few resources for involving the family in the treatment of status offenses or delinquency, social workers are perceived to have even less enforcement powers. That is another reason why some respondents would oppose the removal of status offenses from court jurisdiction.

The survey highlighted several facts about the youth justice system. In general, the total confusion in the youth services system seems, in large part, to be the results of differing responsibilities inherent within the different roles necessary for providing all services to troubled youth. While this check and balance is healthy, there does seem to be the need to reduce the fragmentation of the system through more and better communication, and through clearer definition of the goals, duties, and responsibilities of participants in the system.

III. ISSUES AND OPTIONS FOR YOUTH SERVICES

Along with the data from the Youth Services Survey, the Subcommittee received further information on the youth justice system through testimony from youth justice planners, child care providers, juvenile probation officers, administrators from several state agencies and other concerned individuals. This section describes the issues assigned to the Subcommittee by SJR 29 and the recommendations for change considered by the Subcommittee.

A. THE DEFINITION OF YOUTH IN NEED OF SUPERVISION

This part examines the current definition of the youth in need of supervision, the proposed changes in the law, and the problems associated with the proposed changes.

Present Definition of Youth in Need of Supervision

According to the Montana Code Annotated:

A youth in need of supervision means a youth who commits an offense prohibited by law which, if committed by an adult, would not constitute a criminal offense, including but not limited to a youth who:

(a) violates any Montana municipal or state law regarding use of alcoholic beverages by minors;

(b) habitually disobeys the reasonable and lawful demands of his parents or is ungovernable and beyond their control;

(c) being subject to compulsory school attendance is habitually truant from school; or

(d) has committed any of the acts of a delinquent youth but whom the youth court in its discretion chooses to regard as a youth in need of supervision.

This youth is traditionally known as a status offender because the act is regarded as an offense as a consequence of the person's status as a youth. There are approximately 3,000 status offenders per year that come into contact with the youth court. Because the nature of such an offense often indicates that the family of the youth is unwilling or unable to control the youth, and the acting out by the youth may be the result of the instability of the family, welfare as well as juvenile probation services may be involved with the youth and his family. This youth is in the "grey area" where it is not clear if he is the responsibility of juvenile probation services or of welfare.

While it may not be the most efficient method for resolving the conflict, often the ultimate decision assigning responsibility for the youth will hinge upon the following factors: 1) how much will treatment cost and will the budget allow for such treatment, and 2) have the agencies developed a good working relationship with one another.

In the meantime, the youth's problems may intensify as he is waiting for the appropriate treatment from the appropriate agency. Many states have resolved this problem by either removing all status offenders from the jurisdiction of the youth court, or by greatly restricting the juvenile court's jurisdiction to only specific youth, such as runaways. This puts the responsibility for the youth within welfare's jurisdiction rather than the jurisdiction of the youth court. A solution to Montana's problems was presented to the Subcommittee by the Persistent Status Offenders Task Force. It is based upon Washington State's "Procedures for Families in Conflict" statute.

Persistent Status Offender Task Force Proposal

The Persistent Status Offender legislation was intended to focus upon the 10% of youth in the status offender category that either by their persistent disregard for familial or societal rule or by their emotional instability (often manifested and/or aggravated by chemical dependency) are on the road to self-destruction or to a criminal career.

The new definition which is used to define this 10% as "youth in need of services" is as follows:

A "youth in need of services" means a youth whose normal physical or mental health or welfare is harmed or threatened with harm by his involvement in any of the behavior outlined in the following subsections, and the youth has refused or failed to respond to noncourt-ordered governmental or private services; and

- (a) engaged in a persistent course of anti-social conduct, excluding criminal acts; or
- (b) persistently disobeys the reasonable, lawful demands of his/her parents, guardians, or other agency legally responsible for the proper discipline, training, and education of the youth; or
- (c) has committed a delinquent act, but whom the Youth Court, in its discretion, chooses to regard as a "youth in need of services".

Issues for Subcommittee Determination

Barb Conrad, our staff attorney, pointed out several questions for the subcommittee to consider before adopting the proposed legislation.

1. Is the proposed definition of "youth in need of services" an improvement over the existing definition of "youth in need of supervision", significant enough to justify a legislative enactment?

The Subcommittee received testimony from the Probation Officers' Association that the proposed definitions are unclear. In addition to that problem the procedure set up by the legislation involved review teams and committee boards that would be too time-consuming. Adding more committees to the present duties assigned to probation officers would be unmanageable. Also, voluntary services would not be sought by youth, so more petitions would have to be filed.

2. Are status offenders "slipping through the cracks" of the present system because of definitional inadequacies, or is the problem a result of inadequate funding, resources, and delivery of services?

Since a variety of governmental agencies provide financial support for youth placed outside the home and since the law regarding financial support for youth in need of supervision and juvenile delinquents (MCA 41-5-802) is ambiguous concerning the responsibility for funding of services to youth in need of supervision, it would appear that a reexamination and redrafting of this statute would be beneficial. Once that is accomplished, it would be easier to identify how much of the problem is the fault of inadequate funding and how much is the result of definitional inadequacies.

Ms. Conrad also cited several problems with the procedure recommended by the Persistent Status Offender legislation. The procedure is very similar to the present procedure for determining "delinquent youth" and "youth in need of supervision", so the subcommittee was asked to consider the following: Is the proposed procedure decriminalized and simplified with respect to the existing procedure, so as to justify legislative enactment?

Subcommittee Recommendation

No changes should be made in the definition of a "youth in need of supervision"; specifically the Youth Justice Council's proposal should be rejected.

B.1. POLICIES AND PRACTICES OF GOVERNMENTAL AGENCIES FINANCING SERVICES FOR YOUTH PLACED OUT OF THEIR HOMES

Four agencies, the Department of Social and Rehabilitation Services, Juvenile Probation, Department of Institutions, and Office of Superintendent of Public Instruction, are directly or indirectly involved with youth placed out of their homes. The Department of Social and Rehabilitation Services provides protective services to neglected and dependent youth and treatment-oriented services to youth in need of supervision. The juvenile probation service of the Youth Court has the responsibility of determining the appropriate disposition of youth in need of supervision and juvenile delinquents, and in some instances provides out-of-home placement. When the youth court orders the youth to the custody of the Department of Institutions, he becomes either the responsibility of one of the two juvenile institutions, Mountain View School and Pine Hills School, or the responsibility of

aftercare services. Many troubled youth have special education problems, and a child study team from the local community determines if out-of-district placement is required.

Each agency is responsible for providing services to youth. These services reflect the categorical funding provided by the legislature and the federal government. Since multiproblem youth are often eligible for programs funded from various sources, they cross jurisdictional boundaries, the lines of responsibility become blurred, and the probability of losing the youth "through the cracks" increases.

Many recommendations for resolving this jurisdictional problem were presented to the Subcommittee. To facilitate the Subcommittee's consideration of these recommendations, each agency's responsibilities, along with the proposed recommendations for change, were outlined.

Social and Rehabilitation Services Responsibilities

Residential supervision is provided to youth in need of care as well as to youth in need of services and delinquent youth, by SRS. The Department of Social and Rehabilitation Services develops policy for and provides a portion of the funds for the protection and placement of youth in need of care. County welfare workers, utilizing the guidelines provide by state law (MCA Title 41, Chap. 3) and by rules established by the Department, are responsible for: 1) facilitating reports of abuse and neglect, 2) investigating such reports, 3) providing emergency protective care, 4) investigating the financial responsibility of parent or guardian, and 5) placing the youth in need of care.

SRS also provides services and funding to youth in need of supervision and to juvenile delinquent youth whose custody has not been transferred to the Department of Institutions. Since most juvenile probation services have limited placement funds, SRS may provide funding for informally or formally adjudicated youth voluntarily or when so ordered by the youth court. SRS also may be directed by the court to conduct an investigation of the financial status of the youth and his family to determine their ability to make restitution or to contribute to the costs of residential care.

The state funding for out-of-home placement varies according to the combination of funds for Aid to

Families With Dependent Children, County Welfare Service funds, and Medicaid funds. The state may bill the county for up to 50 % of the cost of out-of-home placement. If the parents are ordered to contribute, they reimburse SRS, and SRS returns 50% of that payment to the county.

SRS places children in foster care, private nonprofit fee-for-service residential group homes or child-caring agencies. SRS licenses these homes and facilities. The licensing standards define two categories of group care: a) "group homes" providing care for 7 to 12 youth and b) "child care agencies" providing care for 13 or more youth.

SRS - Recommendations for Change

1. In the Plan to Improve Services to Montana's Emotionally Disturbed Children and Youth, prepared by the Subcommittee on Emotionally Disturbed Children, it is recommended that the administration of the residential care system, excluding institutions, be centralized in one existing state agency. The Subcommittee received conflicting testimony concerning the appropriate agency for that responsibility -- both the Department of Institutions and the Department of Social and Rehabilitation Services were recommended.

The Subcommittee considered the following questions with regard to this recommendation:

- a. Will the recommendation improve services to youth?
- b. If the Subcommittee adopts the recommendation, should the aftercare group homes, district youth guidance homes, and foster care services utilized by the Department of Institutions be placed under the administration of SRS, or should aftercare services be retained within the Department of Institutions as extensions of institutional services?
- c. SRS should allocate "paper" budgets to both Probation and County Welfare offices for use in making residential placements.

Since SRS is unable to provide an accounting of the amount of SRS money that county welfare and probation are individually spending on out-of-home placements, the Subcommittee should consider whether:

- a. it would be beneficial to have a separate accounting of county welfare and juvenile probation placement;
- b. it would make local service providers more "accountable" if they were required to live within a prescribed budget;
- c. there are enough safeguards within the system that appropriate placements would still be made if local providers exceed their budgets.

3. A rate system for fee-for-service payments should be standardized based upon the type of care provided and the security rating of the facility.

In the past, SRS and Institutions have had different methods for setting the rates. Even though they are cooperating on the process, the youth service budget for each agency is separately considered by the legislature, and the available budget for youth services is often different for each agency. Both agencies were either underfunded or underestimated the need for out-of-home placement during the last legislative session, and as a result they either cut back on the number of care days they contracted for or they reduced the rates paid to the facilities. The Montana Group Home Association prefers the Department of Institutions as the single state agency based in part upon the rate rollback by SRS.

The Subcommittee considered:

- a. setting up a procedure where both agencies are required to work together to set rates and to bring in a combined budget for residential services; or
- b. moving the administration of residential care to a single state agency and having that agency set rates; or
- c. rate setting by an independent agency such as the Department of Administration and the agencies establishing their budgets based upon the rates and the number of child care days needed.

Youth Court - Juvenile Probation - Responsibilities

Juvenile probation enters the picture when citizen complaints, reports from educational authorities, or

actions by law enforcement bring a youth before the Youth Court. A juvenile probation officer conducts a preliminary investigation, arranges for detention and shelter care, and may informally adjudicate or terminate the case. Under informal adjudication the following disposition may be made: probation, out-of-home placement, or restitution. The county attorney files a petition alleging that the youth is delinquent or in need of supervision, and if such a determination is made by the court, there are a variety of dispositions available to the court -- probation, placement in a foster home, placement in a child care agency, transfer to the custody of the Department of Institutions for community or institutional care, or restitution. Funding for a youth placed out of his home may be available through the court's own budget (the amount varies from county to county), SRS, and Department of Institutions.

If the youth is transferred to the custody of the Department of Institutions, then both parental and county financial responsibility terminate until the youth is returned to the community. The policies and procedures for placing children vary from one judicial district to another. In some districts the policies are written; in others they are unwritten.*

Montana's youth services system is small enough that most members of the system are well aware of the strengths and weaknesses of the residential care programs, and placement decisions may be based on these professional opinions rather than on written procedures. Not all of the judicial districts have funds for placing youth. A problem arises when the probation department lacks the funds to place the youth in the care that is deemed by that agency to be the most appropriate. If funds are sought from other agencies, then delays in providing services, conflicts related to differing opinions as to the most appropriate services, and/or time-consuming court ordering of services, often prevent immediate and effective handling of the youth.

Juvenile Probation Services - Recommendations for Change

1. Right now the policies and procedures in each judicial district often are a reflection of the attitudes and interests of a community rather than statewide policies on the treatment of juvenile

* According to A Plan to Improve Services to Montana's Emotionally Disturbed Children, pp. 4 & 5.

offenders. The Subcommittee considered the following question: if county workers are making the decisions, should the funding for these services be county funds rather than state funds, and should county officials be paying less for other services such as foster care over which they have no control?

2. They also considered this question: if the court orders placement outside of Montana should it include in its findings and conclusions the reason why that placement is the best available placement and why there is no comparable facility in Montana? This recommendation would help social service agencies and the legislature identify gaps in the residential care system. This recommendation was made by David Hull, a Helena attorney. He was a member of a select group that went to Denver to examine the Colorado system.

Aftercare - Responsibilities

Aftercare Group Homes were instituted to serve youths who no longer need institutional care and who cannot be placed back with their own families or in foster care. Aftercare Services also handle delinquents and youth in need of supervision through District Youth Guidance Homes.

At this time 52% of the youth in aftercare group homes and 24% of the youth in district youth guidance homes are delinquent youth. Since aftercare services are designed to provide an intermediate link between the institution and the community, and the state needs a certain number of beds for placing youth who cannot be returned to their communities, aftercare group homes are totally state-supported and district youth guidance homes receive a grant award of \$28,696. Placement of youth in these facilities are at a reduced cost or at no cost to the county.

Aftercare Services - Recommendations for Change

1. Should aftercare services be eliminated and aftercare jurisdiction transferred to the youth court (juvenile probation)?

This recommendation was made by the Juvenile Probation Officers' Association. Some service providers have said that probation would not have

the resources to provide the special services that are required by youth coming out of the institution.

Special Education

Local school districts pay for residential placements through their local budgets on a fee-for-service basis. The policies and procedures utilized in making these placements vary from district to district. Children who have been diagnosed through the local child study team as being in need of out-of-district placement either because they are emotionally disturbed, a youth in need of supervision, or a youth in need of care, are eligible for this funding. In some instances the school district will pay for the whole cost of placement but more often the school district will only pay for the educational part of the placement. The school district is reimbursed 100% by the state general fund for most of these costs.

Recommendations for Change

1. The Subcommittee considered an alternative method of funding the educational needs for youth in need of placement.

Under this proposal, a separate fund for the educational needs of youth placed out of their homes could either be given to SRS to be used as part of the local placement budgets, or OSPI could have a state fund which they would distribute to local committees.

Subcommittee Recommendation

The Subcommittee has recommended that the education costs for substitute care be the responsibility of SRS rather than OSPI.

B.2. DEVELOPMENT OF A SIMPLIFIED FUNDING MECHANISM FOR YOUTH SERVICES

Current Distribution of Funds

The funding of services for youth placed out of their homes is divided among the four agencies responsible for placing or caring for youth. The following table shows the annual state cost of residential child care for three of the agencies:

TABLE I
THE COST OF RESIDENTIAL CHILD CARE

The following expenditures for residential group (and institutional) care placements for children and youth were made by:
FY 80

SRS	Community Services Div. (Foster Care Budget)	\$1,249,192.00
	Economic Assistance Div.	<u>191,133.16</u>
	TOTAL	\$1,440,325.16
D of I	Corrections Division* Mental Health & Residential Services Division**	\$4,218,860.00 <u>795,051.00</u>
	TOTAL	\$5,013,911.00

FY 81

SRS	Community Services Div. (Foster Care Budget)	\$1,714,260.00
	Economic Assistance Div. (Medicaid Budget)	<u>197,672.93</u>
	TOTAL	\$1,911,932.93
D of I	Corrections Division* Mental Health & Residential Services Division**	\$4,694,686.00 <u>929,314.00</u>
	TOTAL	\$5,624,000.00

School Year '80 - '81

OPI	Special Services (Tuition Costs)	\$ 58,081.00
	Yellowstone Boys/Girls Ranch	<u>309,133.00</u>
	TOTAL	\$ 376,214.00

* This includes budgets for Pine Hills School, Mountain View School, Shelter Care, District Youth Guidance Homes, Youth Evaluation Program, and After-care.

** This includes budgets for Warm Springs State Hospital Children's Unit and the Residential Intermediate Treatment Zone (RITZ).

Source: Montana Interagency Committee on Handicapped Children.

The next table explains the annual expenditures and average population for different types of residential services. The costs associated with the institutions or group homes reflect the differing services provided by each residential care provider.

TABLE II
ANNUAL EXPENDITURES AND AVERAGE DAILY POPULATION
FOR SELECTED RESIDENTIAL SERVICES

	FY 1981 Expenditures	Average Daily Population	Annual Cost Per Resident
Mountain View	\$1,292,184	39.1	\$33,048
Pine Hills	2,311,868	89.6	25.802
Aftercare Group Homes (4)	195,537	20.1	9,728
Achievement Place (Hln and Msl)	150,438	13.0	11,572
Foster Care (SRS)	NA	NA	2,904 age 0-12 3,630 age 13-14

Sources: Department of SRS, Department of Institutions; Western Analysis, Inc.

The funding issues involve three major problem areas:

- 1) Immediate and appropriate placement of youth, especially youth in need of supervision, is hampered by overlapping jurisdictions. When resources are abundant the problem is not so apparent, but when resources are scarce, the agency or local unit of government becomes more concerned about the cost of treatment and whether or not equivalent treatment is available at a lower cost. The fragmentation of responsibility may mean that an agency may not have all the necessary data to project future needs, and inadequate budgets are a result of that problem. At the same time, if resources are increased, more previously untreated youth may be referred for treatment and the funding problems expand with the increased needs. Again the budgets may fail to

reflect this unforeseen need. It has also been suggested that tighter budgets produce more conflicts between agencies when the responsibility for certain youth is not clearly defined by law. This problem leads to the second funding issue.

- 2) Certain agencies, such as juvenile probation services, are responsible for making decisions about the appropriate placement of children, but they are not held directly accountable for the funding of these services. If the county or state is reluctant to accept the decisions of a juvenile probation officer, then delays may occur, or the court may order placement even if county or state funds are limited. The decisions which are made at the local level are indirectly affected by the availability of services (state licensed and state-funded by contracts with state), the restraints on available state funds (both SRS and D of I underestimated their funding needs), and the attractiveness of "free" placement in state-run institutions or group homes.
- 3) Private providers are in competition with group homes or institutions which are totally state-funded. The problem is not as simple as public vs. private provider, for not all private providers are equal. Some child-caring agencies have large private endowments which provide a buffer against state rate cuts or rollbacks, and provide those private providers with greater leverage to counter or refute what some feel are arbitrary state decisions concerning funding. The smaller provider who is not receiving a state grant must keep the home at 80% of capacity at all times to maintain the level of funding necessary to keep the home functioning. These homes are not in a position to argue with the ratesetters since the ratesetters are a part of the division that places the youth. Some have argued that there is an inherent conflict of interest in this situation. While other agencies such as the Department of State Lands are also presented with a similar conflicting situation, (i.e. State Lands must maximize state land profits while protecting the environment from mining on fragile lands), they maintain these functions in separate divisions -- something which is not done by SRS or D of I.

In confronting these funding dilemmas the subcommittee considered:

- 1) Should the state assume all treatment costs for community programs just as it assumes all costs for institutional programs? The statutory authority for providing the funding of specific treatment programs should be granted to the agency that provides such treatment, and more authority for placement decisions should be assumed by the state. The authority and responsibility for providing services to status offenders and emotionally disturbed youth would have to be clarified.
- 2) If local governments are to continue to fund out-of-home placements, should more authority and control of placement decisions be given to local government or to regional jurisdictions such as the judicial districts?
- 3) If the system is too fragmented, should there be one state agency for residential services which would put the authority and responsibility for youth outside of the corrections system in one agency? The funding needs would be determined by that agency and the legislature would be presented with one budget for youth services.

Subcommittee Recommendations

In response to the policy and funding issues, the Subcommittee recommended that responsibility for funding and licensing of services to troubled youth should be clarified and simplified. A discussion of the legislation proposed by the Subcommittee to accomplish that task is in Section IV.

C. PROBLEMS OF RESIDENTIAL SERVICES FOR CHEMICALLY DEPENDENT YOUTH

There are no residential services that are designed specifically for chemically dependent youth, but most residential alcohol programs serve a small number of chemically dependent youth. The following table represents the number of youth served by the programs in 1981.

TABLE III
TREATMENT OF YOUTH IN ALCOHOL PROGRAMS
1981

	Total <u>Admissions</u>	Age <u>0-17</u>	Age <u>18-20</u>
Galen (Total)	1648	1%	5%
Galen (AT&R Only)	886		
Glasgow	506	10%	7%
Holy Rosary	120	7%	7%
Comp Care	338	2%	3%
Rimrock	747	4%	5%
Hill-Top	286	3%	9%
Providence	559	1%	4%

Many counties have alcohol or mental health programs that provide outpatient services to alcohol or drug dependent youth. For status offenders, involvement with alcohol is one of the leading reasons for initial involvement with the youth court. In 1980 31% of the 3,784 status offenses committed that year involved liquor and 4% involved possession of intoxicating substances. The respondents to the Youth Services Survey were divided on adequacies of services for chemically dependent youth in their communities. Thirty-five percent said that the services were adequate, 33% said that they weren't adequate, 8% said that they didn't know and 24% didn't respond. While this study was in progress, a residential alcohol and drug treatment program was begun at Shodair Hospital in Helena.

Problems of Emotionally Disturbed Youth in Private and Public Institutions

During the last session the legislature approved the construction of a children's unit in Billings. The unit must be designed to accommodate 60 emotionally

disturbed children -- twice the number that are now served by the children's unit in Warm Springs. In the meantime the RITZ program, which was designed "to give a structured residential treatment to emotionally disturbed adolescents who are in need of treatment", has been discontinued and specialized foster care services are being developed across the state. The Plan to Improve Services to Montana's Emotionally Disturbed Children and Youth concludes that "there is a need for more adequate programs and facilities for the treatment of Montana's disturbed and disturbing youth". There are two facilities providing services to emotionally disturbed youth -- the Yellowstone Boys and Girls Ranch, which is the only privately run in-state residential care facility for emotionally disturbed youth, and the 30-bed unit at Warm Springs.

Issues for Subcommittee Determination

The Subcommittee considered a recommendation to increase the services provided to emotionally disturbed youth -- either through suggesting increased funding so that one or more group homes can be modified to provide such services, or by statutorily requiring that such a service be provided by the state--but decided not to pursue that recommendation at the present time.

IV. A SUMMARY OF PROPOSED LEGISLATION

After reviewing all the issues and options presented in the preceding section, the Subcommittee decided to adopt legislation which would centralize the authority for residential services in one state agency. Under the proposed legislation the Department of Social and Rehabilitation Services would be given authority for administering and supervising the funding for community-based services for troubled youth. In addition, SRS would be the main agency for licensing all youth care facilities. The Department of Institutions would still be responsible for delinquent youth committed to their care but 6 month commitments to the Department of Institutions would be eliminated. Those commitments generally involve youth in need of supervision. Under the proposed legislation those youth would be either the responsibility of SRS or of juvenile probation.

SRS would be given the authority to issue placement budgets to juvenile probation for substitute care placements. These placement budgets would be based upon historical placement patterns and current placement trends. Most judicial districts do not have funds

for placing youth, and much of the confusion in the funding of substitute care placements has been traced to the problems that arise when the court orders SRS to pay for court-ordered placements. Separate budgets for judicial districts would allow individual judicial districts to become aware of the availability of funds for court-ordered substitute care for youth, and would provide more accountability for court-ordered placements.

The proposed legislation creates a new administrative part in Title 41 (Minors) of the MCA. This new part will be codified under the chapter on child abuse, neglect, and dependency, but it will also serve as the administrative authority for community-based services for youth in need of supervision and delinquent youth under the Youth Court Act. This new part provides definitions of 1) community-based services to youth, 2) substitute care, and 3) youth care facilities. It outlines the duties of SRS with relation to youth in need of care, youth in need of supervision, and delinquent youth. It provides for the apportionment of money to judicial districts, but eliminates the youth court from the business of finding, maintaining, and administering shelter care and foster homes for youth. SRS would solely be responsible for finding and licensing foster homes and for licensing group homes and child care agencies.

This new part would combine current law on parents' or guardians' financial responsibility for substitute care into one part. Also, it would eliminate specific references to district youth guidance homes and would instead have several sections giving nonprofit corporations the power to both establish homes and contract with SRS to provide facilities and services to youth.

The provision of prompt and appropriate treatment for troubled youth has been the main concern of the Subcommittee. Thus, the Subcommittee has viewed the move to centralize authority in one state agency as a means of providing more accountability to the system while at the same time simplifying the system, so that the placement process becomes faster and more efficient. The legislation has provided that the placement process must be accomplished in a timely manner. If that doesn't occur, then the agencies involved in the process are mandated to work together to provide a solution. The Subcommittee is also recommending a separate bill in which tuition costs for substitute care would be the responsibility of SRS rather than OSPI so there would be one less agency to be involved in the process.

The Subcommittee realizes that the proposed legislation does not solve all the problems in the juvenile justice system, but views the legislation as a first step in providing a less confused and less fragmented system.

(f) assist and cooperate with other state and federal departments, bureaus, agencies and institutions, when so requested, by performing services in conformity with public assistance purposes;

(g) administer all state and federal funds allocated to the department for public assistance and do all things necessary in conformity with federal and state law for the proper fulfillment of public assistance purposes;

(h) make rules governing payment for services and supplies provided to recipients of public assistance.

(2) The department may:

- (a) purchase, exchange, condemn, or receive by gift either real or personal property which is necessary to carry out its public assistance functions; title to property obtained under this subsection shall be taken in the name of the state of Montana for the use and benefit of the department.
- (b) contract with the federal government to carry out its public assistance functions. The department may do all things necessary in order to avail itself of federal aid and assistance.
- (c) make rules, consistent with state and federal law, establishing the amount, scope, and duration of services to be provided to recipients of public assistance.

Section 2. Section 41-5-103, MCA, is amended to read:

41-5-103. Definitions. For the purposes of the Montana Youth Court Act, unless otherwise stated the following definitions apply:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agency" means the department of corrections—the department of secret and rehabilitation—services—and—any diversion—or—department—or—either authority of state, or local government authorized by law to be responsible for the care or rehabilitation of youth.

(3) "Commit" means to transfer to legal custody.

(4) "Court," when used without further qualification, means the youth court of the district court.

(5)—"Court—for-the-care-of-youths"—means a private residence approved by the court for placement of youth.

(6) "Guardianship" means the status created and defined by law between a youth and an adult with the reciprocal rights, duties, and responsibilities.

(7) "Judge," when used without qualification, means the judge of the youth court.

(8) (a) "Legal custody" means the legal status created by order of a court of competent jurisdiction that gives a person the right and duty to:

- (i) have physical custody of the youth;
- (ii) determine with whom the youth shall live; and for

1 what period;

2 (iii) protect, train, and discipline the youth; and

3 (iv) provide the youth with food, shelter, education, and ordinary medical care.

4 (b) An individual granted legal custody of a youth

5 shall personally exercise his rights and duties as guardian

6 unless otherwise authorized by the court entering the order.

7 **(4)(b)** "parent" means the natural or adoptive parent

8 but does not include a person whose parental rights have

9 been judicially terminated, nor does it include the putative

10 father of an illegitimate youth unless his paternity is

11 established by an adjudication or by other clear and

12 convincing proof.

13 **(4)(c)** "youth" means an individual who is less than

14 16 years of age without regard to sex or emancipation.

15 **(4)(d)** "youth court" means the court established

16 pursuant to this chapter to hear all proceedings in which a

17 youth is alleged to be a delinquent youth, a youth in need

18 of supervision, or a youth in need of care and includes the

19 youth court, the judge, and probation officers.

20 **(4)(e)** "delinquent youth" means a youth:

21 (a) who has committed an offense which, if committed

22 by an adult, would constitute a criminal offense;

23 (b) who, having been placed on probation as a

24 delinquent youth or a youth in need of supervision, violates

1 any condition of his probation.

2 **(4)(f)** "youth in need of supervision" means a youth

3 who commits an offense prohibited by law which, if committed

4 by an adult, would not constitute a criminal offense,

5 including but not limited to a youth who:

6 (a) violates any Montana municipal or state law

7 regarding use of alcoholic beverages by minors;

8 (b) habitually disobeys the reasonable and lawful

9 demands of his parents or guardian or is ungovernable and

10 beyond their control;

11 (c) being subject to compulsory school attendance is

12 habitually truant from school; or

13 (d) has committed any of the acts of a delinquent

14 youth but where the youth court in its discretion chooses to

15 regard as a youth in need of supervision.

16 **(4)(g)** "youth in need of care" means a youth as defined in 41-3-102.

17 **(4)(h)** "custodian" means a person other than a parent

18 or guardian to whom legal custody of the youth has been

19 given but does not include a person who has only physical

20 custody.

21 **(4)(i)** "necessary parties" include the youth, his

22 parents, guardians, custodians, or spouse.

23 **(4)(j)** "State youth correctional facility" means a

24 residential facility for the rehabilitation of delinquent

1 youth such as Pine Hills School in Miles City and Mountain
2 View School in Helena, and Swan River youth forest camp.
3 **title II "Shelter care"** means the temporary substitute
4 care of youth in physically unrestricting facilities.
5 **title II "Detention"** means the temporary substitute
6 care of youth in physically restricting facilities.
7 **title II "Residential--youth--guidance--home--seminar--youth--correctional--facilities--the function of which is to provide--a home and guidance through--adult--separation--for
8 delinquent--youths--and youth--in need of supervision
9 "restitution"** means payments in cash to the
0 victim or with services to the victim or the general
1 community when these payments are made under the
2 jurisdiction of a youth court proceeding.
3 **12.0 "Substitute care"** means full-time care of youth in
4 a residential setting for the purpose of providing
5 shelter, security and safety, guidance, direction, and if
6 necessary treatment to youth who are removed from all
7 without the safety and supervision of their parents or
8 guardians.
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1 supervision may be sheltered only in:

2 (a) a licensed youth foster home or -home-approved-by
3 the court-for-the-provision-of-shelter-care-of-youth as
4 defined in Section 111;

5 (b) a facility operated by a licensed child welfare
6 agency; OR

7 (c) a licensed ~~se~~entation youth group home or shelter
8 facility which is operated by a nonprofit corporation or the
9 youth court for the provision of shelter-care-of-youth as
10 defined in Section 111.

11 (d) any other suitable place or facility designated or
12 operated by the court for the supervision of youth in
13 shelter-care.

14 (2) The youth may be detained in a jail or other
15 facility for the detention of adults only if:

16 (a) the facilities in subsection (1) are not available
17 or do not provide adequate security;

18 (b) the detention is in an area physically and
19 visually separate and removed from those of adults;

20 (c) it appears to the satisfaction of the court that
21 public safety and protection reasonably require detention;
22 and

23 (d) the court so orders.

24 (3) The official in charge of a jail or other facility
25 for the detention of adult offenders or persons charged with

1 crime shall inform the court immediately if a person who is
2 or appears to be under the age of 18 years is received at
3 the facility. Such official shall bring the person before
4 the court upon request or deliver him to a detention
5 facility designated by the court.

6 (4) A youth alleged to be in need of care shall be
7 placed only in the facilities stated in subsection (1) of
8 this section and shall not be detained in a jail or other
9 facility intended or used for the detention of adults
10 charged with criminal offenses."

11 Section 4. Section 41-5-403, MCA, is amended to read:
12 "41-5-403. Disposition permitted under informal
13 adjustment. (1) The following dispositions may be imposed by
14 informal adjustment:
15 (a) probation;
16 (b) placement of the youth in a licensed foster home
17 or other home approved by the court for substitute care into
18 a youth care facility as defined in [Section 1];
19 (c) placement of the youth in a private agency
20 responsible for the care and rehabilitation of such a youth
21 involving but not limited to a district youth guidance home;
22 (d) transfer of legal custody of the youth to the
23 department of institutions provided that such consent
24 does not authorize the department of institutions to place
25 the youth in a state youth correctional facility and such

1 commitment may not exceed a period of 6 months without a
2 subsequent order of the court after notice and hearing
3 to [redacted] restitution upon approval of the youth court
4 judge.
5 (2) In determining whether restitution is appropriate
6 in a particular case, the following factors may be
7 considered in addition to any other evidence:
8 (a) age of the youth;
9 (b) ability of the youth to pay;
10 (c) ability of the parents or legal guardian to pay;
11 (d) amount of damage to the victim; and
12 (e) legal remedies of the victim, however the ability
13 of the victim or his insurer to stand any loss may not be
14 considered in any case."

15 Section 5. Section 41-5-523, MCA, is amended to read:
16 "41-5-523. Disposition of delinquent youth and youth
17 in need of supervision. (1) If a youth is found to be
18 delinquent or in need of supervision the court may enter
19 its judgment making the following disposition:
20 (a) place the youth on probation;
21 (b) place the youth in a licensed foster home the youth for
22 substitute care into a youth care facility as defined in
23 [Section 1] or a home approved by the court;
24 (c) place the youth in a private agency responsible
25 for the care and rehabilitation of such a youth including

but-not-entitled-to-a-district-youth-residence-home;

(d) in the case of a delinquent youth transfer legal custody to the department of institutions; provided however that in the case of a youth in need of supervision such transfer of custody does not authorize the department of institutions to place the youth in the state youth

correctional facility and such custody may not continue for a period of more than six months without a subsequent court order after notice and hearing;

(e) such further care and treatment or evaluation that the court considers beneficial to the youth consistent with subsection (b)(3) of this section;

(f) order restitution by the youth.

(2) At any time after the youth has been taken into custody the court may, with the consent of the youth in the manner provided in 41-5-303 for consent by a youth to waiver of his constitutional rights or after the youth has been adjudicated delinquent or in need of supervision:

(a) order the youth to be evaluated by the department of institutions for a period not to exceed 45 days of evaluation at a reception and evaluation center for youths; or

(b) in the case of a delinquent youth 16 years or older whom the court considers a suitable person for placement at a youth forest camp, notify the director of the department of institutions of the finding. The director of the department of institutions shall then designate to the court the facility to which the youth shall be delivered for evaluation. The court may then commit the youth to the department of institutions for a period not to exceed 45 days for the purpose of evaluation as to the youth's suitability for placement and order the youth delivered for evaluation to the youth facility designated by the director.

If after the evaluation the department of institutions

reports to the court that such child is suitable for placement in a youth forest camp and if there is space available at a camp, the court may then commit such child directly to the youth forest camp under the terms of commitment of this chapter. If the department of institutions reports and states the reasons to the court why the youth is not suitable for placement, the youth shall be returned to the court for such further disposition as the court may consider advisable under the provisions of this chapter. The costs of transporting the youth to the designated youth facility for evaluation and cost of returning the youth to the court shall be borne by the county of residence of the youth.

(3) No youth may be committed or transferred to a penal institution or other facility used for the execution of sentence of adult persons convicted of crimes except as

1 provided by subsection (2)(b).
2 (4) Any order of the court may be modified at any
3 time.
4 (5) Whenever the court vests legal custody in an
5 agency, institution, or department, it must transmit with
6 the dispositional judgment copies of a medical report and
7 such other clinical, predispositions, or other reports and
8 information pertinent to the care and treatment of the
9 youth.

10 (b) The order of commitment to the department of
11 institutions shall read as follows:

ORDER OF COMMITMENT

13 State of Montana)
14) ss.
15 County of *****)

16 In the district court for the *** Judicial District.
17 On the *** day of *** 19***, a minor of this
18 county, *** years of age, was brought before me charged
19 with *** Upon due proof I find that *** is a suitable
20 person to be committed to the department of institutions.
21 It is ordered that *** be committed to the department
22 of institutions until ***.

23 The names, addresses, and occupations of the parents
24 are:
25

1 Name: _____ 2 Address: _____ Occupation: _____

3 _____

4 The names and addresses of their nearest relatives are:
5 _____

6 _____

7 Witness my hand this *** day of *** A.D. 19***.

8 _____

9 Judge: _____

10 NEW SECTION. Section 6. Establishment of substitute
11 care for youth. The legislature in recognition of the wide
12 and varied needs of youth in need of care, delinquent youth,
13 and youth in need of supervision of this state and of the
14 desirability of meeting these needs on a community level to
15 the fullest extent possible, establishes by this part a
16 system of substitute care to provide facilities and services
17 for youth placed out of their homes and establishes a
18 program to provide such facilities and services through
19 local nonprofit corporations and the department of social
20 and rehabilitation services.21 NEW SECTION. Section 7. Definitions. For the purposes
22 of this part the following definitions apply:

23 (1) "Child-care agency" means a youth care facility in
24 which substitute care is provided to 13 or more children or
youths.

(2) "Community-based services to youth" means a system of services provided to youth in need of care, youth in need of supervision, and delinquent youth outside of an institution, including but not limited to the following:

- (a) evaluation services;
- (b) diagnostic services;
- (c) treatment services;
- (d) training services;
- (e) education services;
- (f) counseling services;
- (g) information and referral services;
- (h) protective and other social services;
- (i) residential services.

(3) "Department" means the department of social and rehabilitation services.

(4) "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and if necessary, treatment to youth who are removed from or without the care and supervision of their parents, or guardian.

(5) "Treatment facility" is a child-care agency providing the appropriate level of care.

(6) "Youth care facility" means a facility, licensed in accordance with 41-3-502 through 41-3-504, in which substitute care is provided to youth in need of care, youth in need of supervision, or delinquent youth, and includes youth foster homes, youth group homes, and child-care agencies.

(7) "Youth foster home" means a youth care facility in which substitute care is provided to one to six children or youth to whom the foster parents are not related by blood, marriage, adoption, or wardship.

(8) "Youth group home" means a youth care facility in which substitute care is provided to 7 to 12 children or youth.

NEW SECTION Section 8. Powers and duties of department. (1) The department shall:

- (a) administer all state and federal funds allocated to the department for youth foster homes, youth group homes, child-care agencies, and community-based programs for youth in need of care, youth in need of supervision, and delinquent youth;
- (b) exercise licensing authority over all youth foster homes, youth group homes, and child-care agencies;
- (c) collect and disseminate information relating to youth in need of care, youth in need of supervision, and delinquent youth;
- (d) provide for training of program personnel;

1 (e) provide by rule for the evaluation of all
2 community-based services to youth;
3 (f) in cooperation with the department of institutions
4 and youth care facility providers, develop and implement
5 standards for youth care facilities;
6 (g) apportion and allocate placement budgets to all
7 judicial districts;
8 (h) develop an annual comprehensive plan for the
9 initiation and maintenance of community-based services to
10 youth; and
11 (i) seek public input on the plan prior to its
12 adoption and implementation.

13 (2) The department may:

14 (a) enter into contracts with nonprofit corporations
15 or associations to provide facilities and services for youth
16 in need of care, youth in need of supervision, and
17 delinquent youth;

18 (b) accept gifts, grants, and donations of money and
19 property from public and private sources to initiate and
20 maintain community-based services to youth.

21 **NEW SECTION. Section 9. Apportionment of money to**
22 **judicial districts.** (1) The department shall apportion and
23 allocate placement budgets, based upon historical placement
24 patterns and current placement trends, to the judicial
25 districts for the substitute care of youth in need of

1 supervision or delinquent youth.
2 (2) The placement budgets may be monitored by a youth
3 court committee as provided for in 41-5-105 or a foster care
4 review committee as provided for in 41-5-807.
5 Section 10. Section 41-5-801, MCA, is amended to read:
6 "41-5-801. ~~Shelter-care-and-foster-homes~~ ~~Establish~~ ~~care~~
7 ~~Payments for youth court placements~~ ~~if~~ ~~the~~ ~~youth~~ ~~court~~ ~~any~~
8 ~~establish~~ ~~procedures~~ ~~for~~ ~~finding~~ ~~maintaining~~ ~~and~~
9 ~~administering~~ ~~shelter-care-and-foster-homes~~ ~~or~~ ~~other~~ ~~home~~
10 ~~approved~~ ~~by~~ ~~the~~ ~~court~~ ~~for~~ ~~youth~~ ~~within~~ ~~the~~ ~~provisions~~ ~~of~~
11 ~~this chapter.~~
12 (2) Pursuant to 41-3-104, the department of ~~social~~ and
13 rehabilitation—services shall finance ~~as~~ ~~foster~~ ~~home~~
14 ~~established~~ ~~make~~ ~~a~~ ~~foster~~ ~~care~~ ~~payment~~ ~~for~~ ~~a~~ ~~child~~ ~~placed~~ ~~by~~
15 the youth court if:
16 ~~until~~ ~~the~~ ~~foster~~ ~~home~~ ~~child~~ ~~is~~ ~~placed~~ ~~in~~ ~~a~~ ~~youth~~ ~~care~~
17 facility licensed by the department of ~~social~~ and ~~apprentice~~
18 licensing authority from ~~another~~ ~~state~~;
19 ~~until~~ ~~the~~ ~~youth~~ ~~court~~ ~~enters~~ ~~into~~ ~~an~~ ~~agreement~~
20 according to federal regulations with the department for the
21 placement of children;
22 ~~until~~ ~~the~~ ~~placement~~ ~~of~~ ~~the~~ ~~child~~ ~~is~~ ~~reviewed~~ ~~as~~
23 required by 41-5-807; and
24 ~~until~~ ~~the~~ ~~youth~~ ~~court~~ ~~retains~~ ~~supervision~~ ~~of~~ ~~the~~
25 child in placement.

(3) The department shall conduct or arrange for the review required under 41-5-807 of a child placed in a licensed-facility-foster-home-child-care-agency group--home or--treestee youth care facility if the child is placed under the supervision of the department or placed by the department or the department pays for the care of the child as set forth in this section.¹¹

NEW SECTION Section 12. Time limitations on youth court placements. (1) If the court has determined that a youth be placed in a licensed youth care facility as provided in 41-5-403 or 41-5-522 and the youth has not been placed within 10 working days of such determination, the probation officer, a representative of the department, and a representative of the elementary or high school district in which the youth resides must meet to determine three appropriate placement alternatives.

(2) The three placement alternatives shall be presented to the youth court judge for his consideration within 15 working days of the informal adjustment or dispositional hearing.

(3) If the judge then orders the placement of the youth in a facility other than one of the three alternatives presented to him, he must state the reason for ordering such placement.

(4) Delays resulting from court-ordered evaluations or

1 the youth are not included in the 15-day time limitation.

2 Section 13. Section 41-3-405, MCA, is amended to read:

3 "41-3-405. Investigation of parents" or guardian's

4 financial ability. (1) whenever a court determines a youth

5 to be an abused, neglected, or dependent child pursuant to

6 41-3-404, the court shall issue an order directing the

7 county welfare department of the county in which the

8 petition was filed to conduct an investigation of the

9 financial status of the child's parents or the extent of

10 guardianship assets.

11 (2) Upon receipt of the order, the county welfare

12 department shall make an investigation for the purpose of

13 ascertaining the residence of the parents or guardian of the

14 child and the financial ability of the parents or the

15 adequacy of the guardianship assets to pay the cost of

16 supporting the child in a foster-home-child-care-agency

17 group-home-or-private-treatment-youth-care facility. A

18 written report of the investigation shall be filed with the

19 clerk of court before the time fixed for the dispositional

20 hearing.

21 (3) A copy of the written report shall be provided to

22 all parties to the proceeding before the time set for the

23 dispositional hearing."

24 Section 14. Section 41-5-805, MCA, is amended to read:

25 "#41-5-805. Financial investigation by county welfare

1 department. (1) Whenever a disposition under 41-5-403*

2 41-5-523, or 41-5-524 involves placement in a foster-home

3 child-care-agency-group-home-or-private-treatment-youth

4 care facility and the department of---secret---and

5 rehabilitation-services is responsible for all or part of

6 the cost of such placement, the probation officer or the

7 court shall notify the department of---secret---and

8 rehabilitation-services and order the county welfare

9 department in the youth's county of residence to conduct an

10 investigation of the financial status of the youth's parents

11 or guardianship assets. Following an adjudicatory hearing in

12 which a youth is determined to be a delinquent youth or a

13 youth in need of supervision, the court may order the county

14 welfare department to conduct a financial status

15 investigation.

16 (2) Upon receipt of the order, the county welfare

17 department shall make an investigation for the purpose of

18 ascertaining the residence of the parents or guardian of the

19 youth and the financial ability of the parents or the

20 adequacy of the guardianship assets to pay the cost of

21 supporting the youth in the foster home, child care agency,

22 group home, or private treatment facility. A written report

23 of the investigation shall be filed with the court having

24 jurisdiction, the department of social and rehabilitation

25 services, and the department of institutions, and a copy

1 shall be sent to the parents or guardian of the youth or to
2 any other party to the proceeding*"

3 Section 15. Section 41-3-407, MCA is amended to read:

4 "41-3-407. Order for financial support. (1) Whenever a
5 youth is placed in a foster-home--child-care-agency--group
6 home--or--private--ment ~~youth-care~~ facility under
7 41-3-406, the court shall determine the ability of the
8 youth's parents or guardian to contribute to the support of
9 the youth or the adequacy of the guardianship assets to
10 provide a contribution. This question of financial ability
11 shall be considered at the dispositional hearing and
12 evidence concerning financial status may be introduced. In
13 determining financial ability the court shall consider the
14 report prepared pursuant to 41-3-405 and any other evidence
15 introduced at the dispositional hearing.

16 (2) If the court determines that the parents are able
17 to contribute to the support of the youth or that the
18 guardianship assets are adequate to provide a contribution,
19 the court shall issue an order directing the parents or
20 guardian to make specified payments to the department of
21 social and rehabilitation services to the extent considered
22 appropriate under the circumstances. Payments required of a
23 guardian may not exceed the funds available from
24 guardianship assets. Upon a showing of change in financial
25 ability, the court may modify the order."

1 Section 16. Section 41-3-105, MCA, is amended to read:
2 "41-3-105. Recovery from parents or guardian
3 assets -- division between state and county. (1) In the
4 event any recovery is made from the parent or parents or
5 guardianship assets of children for whom boards, clothing,
6 personal needs, and room have been paid by the state and
7 county, any amount so recovered shall be divided equally
8 between the department and the county of residence of such
9 child or children.

10 (2) Any amount collected from the parents or
11 guardianship assets when a child is placed in a ~~fares~~ home
12 ~~United-Enter-gency-Group-home--or--private--treatment~~ youth
13 care facility shall be transmitted to the department of
14 social and rehabilitation services. The department shall
15 then pay to the county one-half of the amount so collected."

16 Section 11. Section 41-3-501, MCA, is amended to read:
17 "41-3-501. Definitions. (1) Any person owning or
18 operating a home--or--treatment youth care facility into
19 which home--or--treatment he takes any child or children for
20 the purpose of caring for them and maintaining them and for
21 which care and maintenance he receives money or other
22 consideration of value, and which child is neither his son,
23 daughter, nor ward shall be deemed to be an "operator" of a
24 ~~fares~~ home--or--boarding--home, "youth care facility" or
25 the meaning of this chapter, except that this chapter shall

1 not apply when any person accepts such care and custody of
2 such child on a temporary basis and ~~simply~~ as a temporary
3 accommodation for the parent or parents, guardian, or
4 relative of such child.

5 (2) The word "person" where used in this chapter shall
6 include any individual, partnerships, voluntary association*
7 or corporation.*

8 **NEW SECTION.** Section 18. Rules. The department may
9 adopt rules to carry out the administration and purposes of
10 this part.

11 **NEW SECTION.** Section 19. Power of nonprofit
12 corporations to establish homes and to receive facilities
13 and funds. Nonprofit corporations or associations may be
14 formed or organized for the purpose of establishing youth
15 care facilities or to provide community-based services and
16 to receive from the department and other governmental units
17 such services, facilities, and funds as the department or
18 other governmental units may be authorized by law to
19 provide.

20 **NEW SECTION.** Section 20. Governmental contracts with
21 nonprofit organizations. (1) The department may contract
22 with nonprofit corporations or associations to provide
23 facilities and services for youth in need of care, youth in
24 need of supervision, and delinquent youth in youth care
25 facilities and is authorized to expend such money as is

appropriated or available therefor.

(2) Governmental units, including but not limited to
counties, municipalities, school districts, or state
institutions of higher learning, are authorized at their
own expense, to provide funds, materials, facilities, and
services for community-based services.

Section 21. Section 41-3-502, HCA, is amended to read:
"41-3-502. License required. No person shall maintain
or operate a foster-or-boarding-home youth care facility for
any child or children within the meaning of this chapter
without first securing a license in writing from the
department of ~~several and rehabilitation~~—services. No fee
shall be charged for such license."

Section 22. Section 41-3-503, HCA, is amended to read:
"41-3-503. Issuance of license — authority of issuing
agency. The department of ~~several and rehabilitation~~—services
is hereby authorized to issue licenses to persons conducting
boarding-or-foster-homes operating youth care facilities and
to prescribe the conditions upon which such licenses shall
be issued and to make such rules as it may deem advisable
for the operation and regulation of foster-and-bonding
homes such facilities for minor children consistent with the
welfare of such children. Such licensing agency shall have
the power and authority to inspect all such licensed foster
and-boarding-homes facilities through its duly authorized

1 representatives and to cancel licenses theretofore issued
2 for the failure to observe such rules. The person operating
3 such houses shall give to such representative such
4 information as may be required and afford him every
5 reasonable ~~feet~~^{feet} opportunity for observing the operation
6 of such homes."

7 Section 23. Section 41-3-504, MCA, is amended to read:

8 ~~"41-3-504. Penalty. Any person who maintains or~~
9 ~~conducts operates a foster or boarding home youth-care~~
10 ~~facility or assists in conducting operating or maintaining~~
11 ~~such home facility without having first obtained a license~~
12 ~~in writing as hereto provided shall be guilty of a~~
13 ~~misdeemeanor and upon conviction be punished by a fine not to~~
14 ~~exceed \$100."~~

15 Section 24. Section 41-3-802, MCA, is amended to read:

16 ~~"41-3-802. Shelter—care—and—detention Detention~~
17 ~~facilities. (1) (a) In all counties the county commissioners~~
18 ~~may provide by purchase, leases, or otherwise a place to be~~
19 ~~known as the youth detention facility, which shall not be~~
20 ~~used for the confinement of adult persons charged with~~
21 ~~criminal offenses, where delinquent youths and youths in~~
22 ~~need of supervision may be detained until final disposition,~~
23 ~~which place shall be maintained by the county as in other~~
24 ~~like cases."~~

25 ~~(b) (2) The judge having jurisdiction may appoint such~~

1 personnel as required who shall have charge of said
2 facility and of the youths detained therein.

3 ~~(c) (3) The compensation of such personnel shall be~~
4 ~~fixed by the court, and such compensation and the~~
5 ~~maintaining of such facility shall be paid out of the county~~
6 ~~treasury which may be supplemented by state appropriation~~
7 ~~and Federal funds.~~

8 ~~(d) (4) Youth—courts—and—nonprofit corporations may~~
9 ~~provide by purchase, leases, or otherwise—a place—to-be~~
10 ~~known-as—a-shelter-care-facility~~

11 ~~(b) (5) Such facility—shall—be physically—restricting~~
12 ~~and—may—be—used—to—provide—shelter—care—for—youth—delinquent—or~~
13 ~~adolescent—delinquent—in—need—of—supervision—or—in—need~~
14 ~~offenses~~

15 ~~(c) (6) Such facility—not-to—separate—and—spare—from—any~~
16 ~~facility—housing—adults—charged—with—criminal—offenses~~

17 ~~(d) (7) State—appropriations—and—federal—funds—may—be~~
18 ~~received—by—the—youth—court—or—private—nonprofit~~
19 ~~corporations—for—establishment—maintenance—or—operation—at~~
20 ~~such facilities~~

21 ~~(e) (8) Such facility—shall—be—furnished—in—a—comfortable~~
22 ~~shelter—and—be—as—nearly—as—possible—like—a—family—home."~~

23 **NEW SECTION** Section 25. Petition for placement in
24 facility or home. Any person between the ages of 18 and 21
25 years who is still within the jurisdiction of the youth

1 court, or any person under the age of 18 years may petition
2 the youth court of a district in which a youth care facility
3 has been established to be placed in such a facility or in
4 any other home approved by the court for any period of time
5 up to the person's 21st birthday.

6 **NEW SECTION.** Section 26. Authority of judge to commit
7 youth. A youth court judge may in his discretion place a
8 delinquent youth or a youth in need of supervision in a
9 youth care facility for any period of time up to the child's
10 21st birthday subject to the approval of the facility's
11 sponsoring nonprofit corporation or association.

12 **NEW SECTION.** Section 27. Continuing jurisdiction of
13 youth court. The youth court placing a delinquent youth or a
14 child in need of supervision in a youth care facility
15 retains continuing jurisdiction over the youth until the
16 youth becomes 21 years of age or is otherwise discharged by
17 order of the court.

18 **NEW SECTION.** Section 28. Aftercare facilities. (11)
19 The department of institutions may establish, maintain and
20 administer aftercare facilities for the care, custody, and
21 treatment of youth who have been committed to the
22 department.
23 (2) Aftercare facilities are under the licensing
24 authority of the department.

25 Section 29. Section 20-15-403, HCA, is amended to

1 read:
2 ■ 20-15-403. Applications of other school district
3 provisions. (1) When the term "school district" appears in
4 the following sections outside of Title 20, the term
5 includes community college districts and the provisions of
6 those sections applicable to school districts apply to
7 community college districts:
8 2-16-114*, 2-16-602*, 2-16-614*, 2-18-703*, 7-3-1101*, 7-6-2604*,
9 7-6-2801*, 7-7-123*, 7-8-2216*, 7-8-2215*, 7-8-2216*, 7-11-103*,
10 7-12-4106*, 7-13-110*, 7-13-210*, 7-15-4206*, 10-1-103*,
11 15-1-101*, 15-6-204*, 15-16-101*, 15-16-601*, 15-18-108*,
12 15-55-106*, 15-70-301*, 15-70-322*, 17-5-101*, 17-5-202*,
13 17-6-103*, 17-6-204*, 17-6-213*, 17-7-201*, 18-1-102*, 18-1-105*,
14 18-1-112*, 18-1-201*, 18-2-101*, 18-2-103*, 18-2-113*, 18-2-114*,
15 18-2-404*, 18-2-408*, 18-5-205*, 19-1-102*, 19-1-602*, 19-1-811*,
16 22-1-309*, 25-1-402*, 27-18-406*, 33-20-1104*, 39-3-104*,
17 39-4-107*, 39-51-103*, 39-51-306*, 39-71-116*, 39-71-117*,
18 39-71-2106*, 39-71-2206*, 40-6-237*, 44-5-942 [Section 22].
19 49-3-101*, 49-3-102*, 53-20-304*, 77-3-321*, 82-10-201*,
20 82-10-202*, 82-10-203*, 85-7-2158*, and 90-6-208 and Rule 5
21 40(2)(g) and 15(c), H.R.C.W.P., as amended.
22 (2) when the term "school district" appears in a
23 section outside of Title 20 but the section is not listed in
24 subsection (1), the school district provision does not apply
25 to a community college district.
-29-

1 Section 30. Section 76-2-313, MCA, is amended to read:
2 "(2) a group, foster, or other home specifically
3 provided as a place of residence for developmentally
4 disabled or handicapped persons who do not require nursing
5 care;
6 "(2) a ~~discrete~~ youth guidance group home established
7 pursuant to 41-5-903 as defined in [Section 1];
8 "(3) a halfway house operated in accordance with
9 regulations of the department of health and environmental
10 sciences for the rehabilitation of alcoholics or drug
11 dependent persons; or
12 "(4) a licensed adult foster family care home."
13 Section 31. Section 76-2-314, MCA, is amended to read:
14 "(2) a relationship of foster homes, boarding
15 youth group homes, and community residential facilities to
16 zoning. (1) A foster or boarding youth group home operated
17 under the ~~previous~~ provisions of 41-3-501 through 41-3-504
18 or community residential facility serving eight or fewer
19 persons is considered a residential use of property for
20 purposes of zoning if the home provides care on a
21 24-hour-a-day basis.
22 (2) The homes are a permitted use in all residential
23 zones, including but not limited to residential zones for

1 single-family dwellings. Any safety or sanitary regulation
2 of the department or any other agency of the state or
3 political subdivision thereof which is not applicable to a
4 residential occupancy in general may not be applied to a
5 community residential facility serving eight or fewer
6 persons.
7 (3) Nothing in this section shall be construed to
8 prohibit a city or county from requiring a conditional use
9 permit in order to maintain a home pursuant to the
10 provisions of this section provided such home is licensed by
11 the department of health and environmental sciences and the
12 department of social and rehabilitation services."
13 ~~NEW SECTION~~ Section 32. Administration. Inc.
14 provisions of title 41, chapter 3, part 11, govern the
15 administration of this chapter.
16 ~~NEW SECTION~~ Section 33. Codification and code
17 commissioner instructions. (1) Section 32 is intended to be
18 codified as an integral part of title 41, chapter 5, and the
19 provisions of title 41, chapter 5, apply to section 32.
20 (2) Sections 6, 7, 8, 9, 12, 16, 19, 20, and 25
21 through 28 are intended to be codified as a new part 11 in
22 title 41, chapter 3, and the provisions of title 41, chapter
23 3, apply to such sections.
24 (3) (a) Sections 41-3-405 and 41-5-605, MCA, are to be
25 continued.

-End-

1 county of his residence before July 1 of the school fiscal
2 year for which he seeks approval except in those cases when
3 substantial changes in circumstances occurred subsequently
4 to justify later application. The application shall be made
5 on a tuition agreement form supplied by the county
6 superintendent and shall be presented before permission to
7 enroll in and attend school outside of the district under
8 the provisions of this section may be granted, by:

9 (a) the trustees of the elementary district in which
10 the child resides;

11 (b) the trustees of the district where the child
12 wishes to attend school; and

13 (c) the county superintendent of the child's
14 residence.

15 (3) in considering the approval of a tuition
16 application, the tuition approval agents prescribed in this
17 section shall approve such application for a resident child
18 when:

19 (a) the child resides less than 3 miles from the
20 school which he wishes to attend and more than 3 miles from
21 any school of his resident elementary district;

22 (b) the child resides more than 3 miles from any
23 school of his resident elementary district and such district
24 does not provide transportation under the provisions of this
25 title;

2

-5-

(c) the child resides more than 3 miles from any school of his resident elementary district, the resident district does not provide transportation under the provisions of this title, and school bus transportation is furnished by the district operating the school which he wishes to attend; ~~and~~

(d) the child is a member of a family who must send another child outside of the elementary district to attend high school and the child of elementary age may more conveniently attend an elementary school where the high school is located, provided the child resides more than 3 miles from an elementary school of the resident district or the parent must move to the elementary district where the high school is located in order to enroll the other child in high school; ~~or~~

~~(e)~~ the ~~if~~ a child has been declared by a court of competent jurisdiction to be an abused, neglected, or delinquent child as defined in 41-5-102, or a delinquent youth, as defined in 41-5-103, and has been ordered to be placed in a licensed child care institution which is approved by the department of social and rehabilitation services and as a result of the order the child is required to attend elementary school outside of the district of his residence; ~~for purposes of this subsection—the prescribed geographic relationship of the receiving district to the~~

- 2 (nd)



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